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C O N F I D E N T I A L ZAGREB 000396

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DEPARTMENT FOR EUR/SCE AND EUR/RPM

E.O. 12958: DECL: 03/24/2016

TAGS: [NATO](#) [PREL](#) [MARR](#) [HR](#)

SUBJECT: SUBJECT: CROATIAN PRESIDENT SAYS ARTICLE 98 NOT  
POSSIBLE UNTIL ICTY CONCLUDES

REF: ZAGREB 356

Classified By: Ambassador Ralph Frank for reasons 1.4 (b) and (d)

11. (C) Summary and Comment: During a March 23, 2006 meeting in Zagreb with Senator Voinovich, Croatian President Mesic said that Croatia could not address the question of Article 98 before The Hague Tribunal concludes its work. This statement, although in accordance with what Mesic's aides have told the Ambassador in the last two weeks, represents a step back from what Mesic told the NATO interagency team during its visit to Zagreb in early March, when he indicated a readiness to take up the issue. PM Sanader appears more willing to address Article 98 and we will encourage him to talk to Mesic. However, without Mesic on board, it is unlikely that GOC could sign an Article 98 agreement. End Summary.

12. (C) Meeting with Croatian President Mesic in Zagreb on March 23, 2006, Senator Voinovich urged Croatia to sign an Article 98 agreement, which he said would enable the U.S. to provide assistance for defense reform through IMET and further Croatia's progress towards NATO membership. Mesic, after noting that Croatia had already concluded much of its planned defense reforms, said that Croatia would "solve" Article 98, but not until Croatia's involvement with ICTY is concluded. He said that he understood the rationale behind Article 98 and could even explain that Croatia would never find itself in a situation where the possibility of extraditing U.S. personnel would arise. However, he feared that public reaction to Croatia's signing an Article 98 agreement would be very negative. Mesic said that the Croatian government could not say to its people that it has an obligation to extradite its own citizens to The Hague while Americans are exempted from extradition to the ICC. He said that, although he realized the two were different, it would have the appearances of a double standard and could not be addressed while Croatia's involvement with The Hague was on-going.

13. (C) Senator Voinovich said that he understood that the decision to sign an Article 98 agreement was one that only Croatia could make. However, he reminded Mesic that many Senators and Members of Congress in the U.S. feel very strongly about Article 98. He noted that when the question of Croatia's NATO membership is raised, the fact that both Albania and Macedonia have signed Article 98 agreements while Croatia has not would be hard for some on The Hill to overlook.

¶4. (C) Mesic's aides have intimated to the Ambassador over the last two weeks that the President's position had changed. His comments to Senator Voinovich are further confirmation of his disavowal of the more forward-leaning position he took with the USNATO interagency team and Ambassador Nuland in early March (reftel). At that time, Mesic said that he believed the question of ICTY was sufficiently resolved for Croatia to begin preparatory work towards the eventual conclusion of an Article 98 agreement.

¶5. (C) PM Sanader appears to be more open than Mesic on Article 98 and we will encourage him to discuss this further with Mesic. However, part of his previous willingness to engage on Article 98 appeared to be linked to the softening of Mesic's position. Politically, Sanader cannot go it alone on this sensitive issue. Unless Mesic can be brought around, we consider it unlikely that Croatia could sign an Article 98 agreement in the near term.

FRANK